

No. 5098-4Lab-71/16177.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Laxmi Rattan, Engineering Works, Faridabad.

BEFORE SHRI O. P. SHARMRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Application No. 17 of 1970

Under section 33-A of the Industrial Disputes Act, 1947

between

SHRI ADARSH KISHORE WORKMAN AND THE MANAGEMENT OF M/S LAXMI RATTAN
ENGINEERING WORKS, FARIDABAD.

Present:—

Shri Adarsh Kishore concerned workman with Shri Amar Singh authorised representative.

Shri R. C. Sharma, for the management.

AWARD

Shri Adarsh Kishore an employee of M/s Laxmi Rattan Engineering Works, Faridabad, brought this application under section 33A of the Industrial Disputes Act, 1947, on 25th September, 1970 with the allegations that he had been dismissed from service on 31st March, 1970, in contravention of the provisions of section 33(2)(b) of the Act, during the pendency of reference No. 56 of 1967 regarding the general demand of the workman for the introduction of gratuity scheme. The application has been contested by the management.

It is, however, not necessary to go into the merits of the case as the applicant has made a statement that he does not want to proceed with the application because a regular dispute with regard to the demand in question has already been raised rendering the present application infructuous. There is no objection on behalf of the management.

The application, in result, shall stand dismissed as withdrawn being infructuous. There shall be no order as to costs.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Dated 11th May, 1971.

No. 458, dated, the 11th May, 1971

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Dated 11th May, 1971.

No. 5101-4Lab-71/16179.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Nirula Bros. (P) Ltd., Gurgaon.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 96 of 1970

between

The workmen and the management of M/s Nirula Bros. (P) Ltd., Gurgaon.

Present:—Shri Sardha Nand for the workmen.

Shri S. K. Bhasin, for the mangment.

AWARD

The Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication between the workmen and the management of M/s Nirula Bros.(P) Ltd., Gurgaon,—vide order No. ID/GG/2B-69/15196, dated 25th May, 1970.

1. Whether the workers are entitled to bonus for the year 1968-69 ? If so, what should be the quantum of bonus and terms and conditions of its payment ?
2. Whether the grades & Scales of pay of the workers of the Factory should be fixed. If so, with what details ?
3. Whether the workers should be supplied Uniforms. If so, with what details and from which date ?

On receipt of the above reference notices were given to the parties who filed their respective statements. In the claim statement filed on 4th August, 1970 by Shri Darshan Singh, authorised representative of the workmen. It was contended that there were about 60 permanent workmen in this establishment but they were not being paid even the Minimum Wages and certain other facilities provided by law. It was further contended that the management had not formed any grades or pay scales of the workmen and no annual increments were being given to them. Still another averment was made that in spite of earning huge profits the management had not paid any bonus for the year 1968-69. A demand for supply of uniform was also raised.

In the written statement filed on behalf of the management on 12th October, 1970, the above demands raised on behalf of the workmen were disputed and some legal objections were also raised pleading *inter alia* that there was no industrial dispute in the sense as no demand had ever been raised on the management itself not had the dispute been properly espoused in accordance with the requirements of law.

The following issues were framed in the case on 4th December, 1970 and the case was fixed for evidence on 5th January, 1971.

1. Whether the present dispute is not an industrial dispute for the reasons given in para No. 1 of the written statement ?
2. Whether Gurgaon Engineering Workers Union, had no *locus standi* to raise the dispute ?
3. Whether the workmen are not entitled to claim bonus for the reasons given in para No. 3 of the written statement ?
4. Whether no demand was made by the workers on the management. If so, with what details ?
5. Whether the workers are entitled to bonus for the year 1968-69 ? If so, what should be the quantum of bonus and terms and conditions of its payment ?
6. Whether the grades and Scales of pay of the workers of the Factory should be fixed. If so, with what details ?
7. Whether the workers should be supplied uniforms. If so, with what details and from which date ?

The management has examined 8 witnesses including Sarvshri Abdul Aslam, Gobind Ram, Dalip Chand, Devki Nandan, Hira Lal, Harish, Lakhpatt Ram, all workers in this establishment and Shri L. C. Arora, Establishment Incharge and Assistant to Technical Director M.W.5. According to the testimony of Sarvshri Abdul Aslam, Gobind Ram, Dalip Chand, Harish, Lakhpatt Ram M.W. 1 to M. W. 3 and Hira Lal, Harish, Lakhpatt M.W. 6 to M.W. 8, M.W. 1 to M.W. 3 they had no dispute whatever with the management and neither the union nor its President or Secretary had been authorised by them to raise any demand on their behalf. They have further deposed that as per their knowledge the union had no membership from amongst the workers of this establishment. The statement of M. W. 4 is silent on this point.

According to Shri J. C. Arora, M.W. 5 also, the Gurgaon Engineering Workers Union had no membership from amongst the workmen of the present establishment and that no demand had never been raised on the management by the workers.

The workmen have examined 7 witnesses including Sher Singh W.W. 1, Sumari W.W. 2, Nathu Ram W.W. 3, Dharam Pal W. W. 4, Sultan Singh W.W. 5, Ashok Kumar W.W. 6 and Shri Sardha Nand General, Secretary, Gurgaon Engineering Mazdoor Union W.W. 7. According to the deposition of these witnesses the workers of M/s Nirula Bros., (P) Ltd., Gurgaon, had gone on strike in the month of March, 1970 after holding a meeting in the office of the union in which 30 to 40 workers had taken part and a resolution had been passed in the meeting to raise the demands on the management for bonus, gratuity etc. In cross examination some of the witnesses have failed to disclose the names of the 30 or 40 workers who had participated in the said meeting while others have given the names of only Chander Pal Singh, Data Ram, Ashok Kumar, Sultan Singh and Nathu Ram. They have mostly admitted that the management had charge-sheeted and dismissed them from service.

Shri Sardha Nand, W.W. 7 has stated that the Gurgaon Engineering Workers Union in the factory of M/s Nirula Bros., (P) Ltd., Gurgaon was formed in the month of December, 1966 with a total membership of 150 and a demand for bonus had been made on the management but the management had refused to accept this demand and the workers had gone on strike for three months resulting into the closure of the factory. He had further stated that the union was again formed in 1968 with only 60 workers of the said factory and a list of the protected workers had been sent to the management,—vide Ex. W.W. 7/1 under postal certificate W.W. 7/2. He has further stated that a meeting of the union had been called in which 30 or 35 workers had participated and they had passed a resolution to raise their demand on the management and he had been authorised to do so by means of an authority letter executed by the workers in his name which had been submitted to the Conciliation Officer along with the demand notice. He has also stated that the demand notice had been sent to the management also under postal certificate but a receipt issued by the Post Office had been mis-placed.

In cross examination, Shri Sardha Nand has admitted that no copy of the demand notice sent to the management under postal certificate has been filed in the case although he has denied the suggestion that the demand notice was not given direct to the management. He had further refuted the suggestion that no worker of the industrial establishment was a member of this union.

On the request of Shri Sardha Nand representative of the workmen and adjournment was given in the case to enable him to produce the original authority letter or its certified copy but no such document has been placed on the record.

The learned representatives of the parties have addressed their arguments on preliminary issue Nos. 1, 2 and 4 which are more or less inter connected and may safely be taken up together. The contention raised on behalf of the management is two fold, firstly that the demands covered by the present reference were never raised on the management which was necessary according to the rule of law laid down by the Hon'ble Supreme Court in Sindhu Resettlement Corporation Ltd. Vs. Industrial Tribunal Gujrat case and secondly, that the dispute even if any had not been properly espoused by the workmen of this establishment, as required by law.

After carefully going through the facts of the record and the case law cited, I find the above contentions to be quite forceful. The learned representatives of the management has further referred me to the decision, dated 28th May, 1970 of the Delhi High Court in Civil Writ No. 100 of 1969 between Fedders LLOYD Corporation Private Ltd., and Lieutenant Governor Delhi and others wherein their Lordships Mr. Justice I.D. Dua (C.J.) and Mr. Justice V.S. Deshpandey following the aforesaid decision of the Supreme Court were pleased to observe as under :—

“We are of the view that the decision of the Supreme Court in Sindhu Resettlement Corporation Vs. Industrial Tribunal Gujrat (Supra), referred to above, has finally established the proposition that a demand by the workmen must be raised first on the management and rejected by them before an industrial dispute can be said to raise and exist and that the making of such a demand to the Conciliation Officer and its communication by him to the management, who rejects the same is not sufficient to constitute an industrial dispute. The decision and dicta of some of the High Courts to the contrary can no longer be considered good law.”

No authority to the contrary has been cited on behalf of the workmen. It was, therefore, necessary that the demands in question should have been first raised on the management so as to give it reasonable time to accept or reject the same and the mere issuing of the demand notice, through the Conciliation Officer was not sufficient to constitute an industrial dispute, as required by law. It has been argued on behalf of the workmen that the demand notice had first been issued to the management but no copy of that notice has been placed on record nor the postal certificate under which it is alleged to have been communicated. The stand taken on behalf of the workmen in this connection is apparently an after thought. It would not be out of place to observe there that none of the workers who have come into the witness box to support the present demands has uttered a word about the alleged presentation of the demand on the management before initiating the conciliation proceedings. In view of the specific denial of the management on the point, the burden was heavy upon the workmen to bring on record reliable evidence to show that the demand had been raised on the management, as required by law. But they have simply failed to discharge this burden.

As far the plea of want of espousal of the dispute also the law is well established individual dispute perse is not an industrial dispute and to become an industrial dispute it should be sponsored by a trade union or a sufficient number of workmen of the establishment concerned. The necessary evidence on this point also is lacking in the instant case. The five or six workers as also their authorised representatives Shri Sardha Nand who have been examined in support of the demand have deposed that a general meeting of the union had passed a resolution to raise the demands in question and the later had been authorised by the workers to do so. But for the reasons best known to the workers and their learned representative the relevant record pertaining to the membership register, the resolution book and the authority letter has been withheld. There is no reliable evidence on record to show that a sufficient number of workmen of the present establishment had taken part in the alleged meeting and had authorised Shri Sardha Nand to raise the demands on their behalf. The management, on the other hand, has examined six witnesses who are at present working in the factory and they have unanimously deposed that the workers of this factory including themselves had no dispute whatever with the management and that they were neither members of the said union nor had they ever authorised Shri Sardha Nand to raise the demands in question. The testimony of five or six witnesses examined on behalf of the workmen who are all admittedly dismissed hands can not in the circumstances, be safely believed to hold that there had been a proper espousal of the dispute to give it the character of an industrial dispute.

That disposes of the preliminary issues Nos. 1, 2 and 4 which for want of necessary evidence have to be decided against the workmen. The learned representative of the workmen has not been able to satisfy me to the contrary. The issues are accordingly decided and it is held that there is no industrial dispute between the workmen and the industrial establishment concerned with respect to the demands in question.

In view of the above findings on issues Nos. 1, 2 and 4, no further proceedings are called for in the case and it is not necessary to go into the issues on merits for the simple and obvious reason that there being no industrial dispute between the parties nor any dispute having been properly raised, this Tribunal has no jurisdiction to adjudicate upon the demands the subject matter of the present reference. I give my award accordingly. _ against the workmen but without making any order as to costs.

Dated the 7th May, 1971.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 416, dated 7th May, 1971

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 7th May, 1971

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 5099-4Lab-71/16181.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Printers House (P) Ltd., Ballabgarh,

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Application No. 19 of 1970
under section 33-A of the
Industrial Disputes Act, 1947

between

THRI R. C. PATHAK, WORKMEN AND THE MANAGEMENT OF M/S PRINTERS HOUSE
(P) LTD., BALLABGARH

Present :

Shri Amar Singh, for the workman.

Shri R. C. Sharma, for the management.

AWARD

Shri R. C. Pathak, an employee of M/s Printers House (P) Ltd; Ballabgarh, brought this application under section 33A of the Industrial Disputes Act, 1947, on 21st December, 1970 with the allegations that the management had terminated his services with effect from 14th November, 1970 in contravention of the provisions of section 33A of the Act during the pendency of the Industrial Dispute No. 42 of 1969 with regard to the general demand of the workman for dearness allowance. The application has been contested by the management.

It is, however, not necessary to go into the merits of the case as the learned representative of the applicant has made a statement that the applicant does not want to proceed with the application since he has been advised to raise a regular dispute with regard to the demand in question rendering the present application to be infructuous. There is no objection on behalf of the management.

The application, in the result, shall stand dismissed as withdrawn. There shall be no order as to costs.

Dated 11th May, 1971

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 457, dated the 11th May, 1971.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 11th May, 1971

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.
B. L. AHUJA,
Commissioner for Labour and Employment and
Secretary to Government, Haryana.